

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT AND ADOPTING FINDINGS, A STATEMENT OF OVERRIDING CONSIDERATIONS, AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE COCHRANE ROAD PLANNED UNIT DEVELOPMENT PROJECT

WHEREAS, for purposes of compliance with the provisions of the California Environmental Quality Act (“CEQA”), a Draft Environmental Impact Report (“DEIR”) for the Cochrane Road Planned Unit Development Project (“Project”) was prepared and circulated for review and comment; and

WHEREAS, the environmental consultant which prepared the DEIR responded to comments received during the review and comment period and prepared a Final Environmental Impact Report (“FEIR”); and

WHEREAS, an Addendum to the FEIR was prepared to address a DEIR comment that the cumulative traffic analysis did not take into account residential units that would be constructed by the time the project is built out; the concern is that these units could accelerate the need to build Cochrane Road to its ultimate six-lane configuration; and

WHEREAS, the Project will include approval by the City Council of the following elements: demolition of all existing structures, removal of existing trees, and construction of a 657,250-sf sub-regional commercial shopping center that will include a mix of commercial, retail, and restaurant uses; and

WHEREAS, CEQA requires that, in connection with the approval of a project for which an EIR has been prepared which identifies one or more significant environmental effects, the decision-making agency make certain findings regarding those effects; and

WHEREAS, the City Council has reviewed the DEIR and the FEIR (and the Addendum thereto), all staff reports and all other information in the record and has considered the information contained therein, including the written and oral comments received at the Council meeting on the Project and makes the findings contained in this Resolution.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. FEIR Certification. The City Council hereby finds and affirms that the FEIR and the Addendum thereto (collectively “FEIR” hereafter) has been completed in compliance with CEQA; that the City Council has reviewed and analyzed the FEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public meeting on the FEIR and the Project, prior to acting upon or

approving the Project; and that the FEIR represents the independent judgment of the City of Morgan Hill; and

SECTION 2. Findings. The findings and recommendations set forth in Exhibit A, and incorporated herein by reference, are made by the City Council as the City's Findings under CEQA (Pub. Resources Code §21000 et seq.) and CEQA Guidelines (Cal. Code Regs., Title 14; § 15000 et seq.) relating to the Project. The Findings provide the written analysis and conclusions of the City Council regarding the Project's environmental impacts, mitigation measures and alternatives to the Project.

SECTION 3. Statement of Overriding Considerations. Specifically, pursuant to Pub. Resources Code §21081 and CEQA Guidelines §§15091 et seq., the City Council adopts and makes the Statement of Overriding Considerations set forth in Section IV of Exhibit A, regarding the remaining unavoidable impacts of the Project and the anticipated economic, social and other benefits of the Project.

SECTION 4. Project Approval. The City Council hereby approves the Project as shown on the site plan dated August 22, 2005.

SECTION 5. MMRP. The City Council hereby approves the Mitigation Monitoring and Reporting Program (MMRP"), attached hereto as Exhibit B. The MMRP identifies potential impacts of the Project, corresponding mitigations, designation of responsibility for mitigation implementation and the entity responsible for the monitoring action.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 16th Day of November, 2005 by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

🔒 CERTIFICATION 🔒

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on November 16, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

Exhibit A

ENVIRONMENTAL IMPACT REPORT FINDINGS, MITIGATIONS, AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE COCHRANE ROAD PLANNED UNIT DEVELOPMENT PROJECT

I. INTRODUCTION

CEQA requires that, before the approval of a project for which an EIR has been prepared, the decision-making body shall review and consider the Final EIR (“FEIR”) and make certain findings regarding the significant effects on the environment identified in the FEIR; and

CEQA requires that for each significant environmental effect identified in an EIR, the decision-making body of the lead agency for the project must make at least one or more written findings accompanied by a brief explanation of the rationale for the finding. The possible findings are: (1) that changes or alterations have been required in or incorporated into the project which avoid or substantially lessen any significant environmental effect; (2) that changes or alterations to the project are the responsibility and within the jurisdiction of another agency and have been or can and should be adopted by such agency; (3) that specific economic, legal, social, technological or other considerations make infeasible the mitigation measures or project alternatives identified in the FEIR.

When the lead agency for a project which will result in the occurrences of significant effects which are identified in the FEIR but are not avoided or lessened, the agency shall state that overriding considerations that support its action based on the FEIR and/or other information in the record.

II. SIGNIFICANT ENVIRONMENTAL EFFECTS OF PROJECT

A. AESTHETICS

Impact: The proposed project would introduce new sources of lighting that could adversely affect the existing and proposed development in the vicinity of the project site.

Mitigation: The project applicant shall prepare and submit a detailed exterior lighting plan that indicates the location and type of lighting that will be used at the project site. The lighting plan shall be consistent with Section 18.74.370 of the City of Morgan Hill Municipal Code. All external lighting shall be indicated on project improvement plans, subject to review and approval by the City of Morgan Hill.

Finding: The increased residual glare and light is considered a potentially significant impact. Preparation and implementation of a detailed exterior lighting plan for the proposed project would reduce this impact to a less than significant level.

B. AGRICULTURAL RESOURCES

Impact: The proposed project would result in the conversion of approximately 66.49 acres of 'Prime Farmland' as designated on California Department of Conservation, Division of Land Resources Protection *Santa Clara County Important Farmland Map*.

Finding/Overriding Consideration: This is a significant and unavoidable impact. There are no feasible mitigation measures available to reduce the impact of agricultural land conversion to a less than significant level. The economic, social, and other benefits of the Project override the unmitigated significant impact described above, as more fully stated in the Statement of Overriding Considerations in Section 2 of the Resolution.

C. AIR QUALITY

Impact 1: The proposed project would require the demolition of three residences and associated outbuildings (e.g. barns, sheds, and a water tower). Based on a site reconnaissance performed by Bovee Environmental Management Inc., asbestos is detectable in hazardous concentrations in the structures at the project site. Therefore, demolition of these buildings has the potential to result in short-term air quality emissions, including the release of asbestos.

Mitigation 1: Prior to demolition of any on-site structures, the project applicant shall conduct a full site assessment for asbestos-containing materials (ACM) by a California Certified Asbestos Consultant for all structures proposed for demolition. Prior to demolition and site clearing activity, all identified ACM shall be removed by a licensed asbestos abatement contractor and clearance shall be obtained from the BAAQMD before proceeding with the demolition. All ACM shall be transported to a disposal site approved to accept non-friable asbestos-containing waste.

Finding 1: The above listed mitigation measure would require the project applicant to conduct a full site assessment and removal of asbestos-containing material prior to demolition, which would reduce this impact to a less than significant level.

Impact 2: Construction activity during build-out of the proposed project would generate air pollutant emissions that could expose sensitive receptors to substantial pollutant concentrations.

Mitigation 2a: The project applicant shall implement the following recommended BAAQMD dust control measures for construction emissions of PM₁₀. These dust control measures shall be implemented during construction for all phases of the proposed project:

- Sprinkle water to all active construction areas at least twice daily and more often when conditions warrant;
- Cover all trucks hauling soil, sand and other loose materials or require all trucks to maintain at least two feet of freeboard;

- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
- Sweep daily all paved access roads, parking areas, and staging areas at construction sites;
- Sweep streets daily if visible soil material is carried onto adjacent public streets;
- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas;
- Enclose, cover, water twice daily, or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.);
- Limit traffic speeds on unpaved roads to 15 miles per hour;
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
- Replant vegetation in disturbed areas as quickly as possible;
- Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site;
- Suspend grading activities when winds exceed 25 miles per hour (mph) and visible dust clouds cannot be prevented from extending beyond active construction areas; and
- Limit the area subject to excavation, grading and other construction activity at any one time.

The project applicant shall incorporate as many BAAQMD recommended reduction measures, as reasonably possible, into the trip reduction plan including the following: providing public service announcements including the ‘Spare the Air’ advertisement at the project’s cinema and provide employees with parking cash-out incentive to reduce the likelihood of driving alone.

Mitigation 2b: Subject to approval by the City of Morgan Hill, the project applicant shall limit the pieces of diesel-powered construction equipment used at any one time, and limit the idling and hours of operation for heavy-duty equipment as feasible during construction of the proposed project to limit the emission of diesel exhaust. Gasoline-powered equipment shall be used as an alternative to diesel to the extent feasible and when comparable equipment and technology is available.

Finding 2: Implementation of the mitigation measures described above would reduce the potential release of particulate matter and pollutant concentrations into the environment. Potentially significant air quality impacts of the Project therefore would be reduced to a less than significant level.

Impact 3: The proposed project would generate operational emissions that would affect long-term air quality.

Mitigation 3a: A facilities 'trip reduction plan' shall be implemented by the project applicant to reduce single occupant vehicle commute trips by employees and promote non-auto travel by both employees and patrons. The facilities trip reduction plan may include, but not be limited to elements that would reduce traffic, and thus air pollutant emissions as described below:

- Provide one bus stop/shelter with pedestrian access to the project site. Implementation of this measure could reduce project emissions by approximately two percent.
- Bicycle amenities should be provided at the project site once the proposed project is in operation. Bicycle amenities could include secure bicycle parking for employees, bicycle racks for customers, and bike lane connections. This vehicle trip reduction measure may reduce emissions associated with the proposed project by approximately two percent.
- Pedestrian facilities should link the future transit stop and access roadways to the major sites uses. This trip reduction measure may reduce emissions by approximately one percent.
- Designate a portion of the parking lot for weekday 'park-and-ride' parking spaces (the excess between weekday peak and weekend peak) which would reduce emissions from traffic to the project site by allowing commuters to park their car and carpool or take transit.
- Require employers at the project site to post transit rates and scheduling information on bulletin boards. This vehicle trip reduction measure may reduce emissions by one percent.

The project applicant shall incorporate as many BAAQMD recommended reduction measures, as reasonably possible, into the trip reduction plan including the following: providing public service announcements including the 'Spare the Air' advertisement at the project's cinema and provisions to provide employees with a parking cash-out incentive to reduce the likelihood of driving alone.

Mitigation 3b: Subject to review and approval by the City of Morgan Hill, the proposed project shall integrate the following design features into the proposed project to reduce area source air quality emissions:

- Carefully select and locate trees to provide shade for structures and pathways within the project site during the summer months. Deciduous trees should be favored since they provide shade in the summer and allow sun to reach residences during cold and winter months. This measure should be focused on southern and western exposures of buildings;

- Incorporate as many energy conserving features as financially feasible into the design and construction of new buildings at the project site. Examples include, but are not limited to, increased wall and ceiling insulation (beyond code requirements), super insulated windows (triple pane) and maximum use of energy efficient lighting;
- Install super-efficient heating, ventilation, and air conditioning (HVAC) systems; and
- Incorporate light colored and reflective roofing materials into the project design.

Finding 3/Overriding Considerations 3: Preparation and implementation of a trip reduction plan designed to reduce traffic congestion in the Project area, as well as incorporation of design features to reduce area source emissions, could result in lower emissions from vehicle travel and operation of the proposed Project. The amount of congestion relief and related total emission reduction is unknown. Therefore, long-term operational emissions associated with the proposed Project would remain significant and unavoidable, even with full effectiveness of the mitigation measure. See Statement of Overriding Considerations.

Impact 4: Project development, combined with other reasonably foreseeable projects in the project vicinity, would contribute to increased air quality emissions in the air basin.

Finding 4/Overriding Consideration 4: Because the proposed project results in significant emissions of air pollutants that affect regional air quality, it is considered to result in a significant cumulative unavoidable impact that cannot be mitigated to a less than significant level. There are no feasible mitigation measures available to reduce the impact to a less than significant level. See Statement of Overriding Considerations.

D. BIOLOGICAL RESOURCES

Impact 1: Implementation of the proposed project would result in temporary and direct alteration of site conditions that could support burrowing owl, a special status wildlife species.

Mitigation 1a: The project applicant shall retain a qualified biologist approved by the City of Morgan Hill to conduct a preconstruction survey for nesting burrowing owls at the project site no more than 30 days prior to ground disturbance. Depending on whether construction will begin during the nesting season (typically February 1st through August 30th), any owls inhabiting the site shall either: (a) during the nesting season be protected from disturbance through establishment of avoidance areas where no personnel or equipment are allowed to enter within a certain distance of the occupied burrow (distance determined by the biologist onsite following Burrowing Owl Consortium recommendations) or (b) outside of the nesting season be excluded and/or passively relocated by the biologist. Also, the qualified biologist shall be present during all phases of initial ground clearing to monitor for the presence of burrowing owl. Should a previously undetected owl emerge during clearing, all activity within the vicinity of the burrow

(distance to be determined by the biologist) shall cease until the proper avoidance/exclusion measures are implemented and the biologist deems disturbance potential to be minimal.

Mitigation 1b: The project applicant shall compensate for loss of burrowing owl habitat located at the site by complying with the Citywide Burrowing Owl Habitat Mitigation Plan and fee program (Morgan Hill 2003).

Finding 1: Implementation of the above mitigation measures would reduce impacts to burrowing owl to a less than significant level.

Impact 2: Implementation of the proposed project would result in temporary and direct disturbance to nesting raptors and migratory birds (excluding burrowing owl).

Mitigation 2: If proposed construction activities are planned to occur during the nesting seasons for local avian species (typically February 1st through August 31st), the project applicant shall retain a qualified biologist approved by the City to conduct a focused survey for active nests of raptors and migratory birds within and in the vicinity (i.e., any suitable breeding habitat in accessible parcels adjacent to the project area that the biologist deems could be disturbed by construction activities) of the construction area no more than 30 days prior to ground disturbance. If active nests are located during preconstruction surveys, construction activities shall be restricted as deemed necessary by the qualified biologist to avoid disturbance of the nest until it is abandoned or the biologist deems disturbance potential to be minimal. Restrictions may include establishment of exclusion zones (no ingress of personnel or equipment at a minimum radius of 100-feet or as determined by a qualified biologist around the nest) or alteration of the construction schedule. No action is necessary if construction will occur during the nonbreeding season (generally September 1st through January 31st).

Finding 2: Implementation of the above mitigation measure would reduce impacts to raptors and migratory birds to a less than significant level.

Impact 3: Implementation of the proposed project would result in temporary and direct alteration of site conditions that could support special status bat species and/or their roosting habitat.

Mitigation 3: The project applicant shall retain a qualified biologist approved by the City of Morgan Hill to conduct a focused preconstruction survey for possible roost sites of special status bat species within the project area. The survey shall be conducted no more than 45 days prior to the onset of ground disturbance or major construction activities. If bat species or roosts are identified within the project area during preconstruction surveys, the biologist in coordination with the applicant shall (at a minimum):

- a) Identify species present within the roost (this may require the assistance of a biologist who specializes in bat ecology);

- b) Install bat boxes at a location determined through obtaining technical guidance from the USFWS and/or DFG (box specifications and number to be determined based on the size of the roost and type of species present); and
- c) Install one-way bat doors at the roost to prohibit bat re-entry once the bat boxes are available.

Additionally, the applicant shall postpone any project-related activity that would damage or disturb the roost site until the biologist deems no bat species to be in jeopardy. The project applicant, to the extent possible, shall also implement USFWS and/or DFG recommendations (obtained through technical guidance) for minimizing the potential to take bat species during construction. If bat species are not identified onsite during the preconstruction survey, no further action is necessary.

Finding 3: Implementation of the above mitigation measure would reduce impacts to special status bat species to a less than significant level.

Impact 4: Implementation of the proposed project would result in potential removal of 118 various tree species, five of which fall within the criteria of the City of Morgan Hill Ordinance Section 12.32.070 due to their size and species.

Mitigation 4: Removal and/or relocation of trees at the project site shall be in compliance with Sections 12.32.030 through 12.32.080 of the City of Morgan Hill Municipal Code, Restrictions on Removal of Significant Trees. Should the City of Morgan Hill require the project applicant to preserve any existing trees in place and/or transplant any trees at the project site, the following tree protection standards shall be implemented during construction and demolition activities at the project site:

Prior to commencement of construction activities, to the greatest extent feasible, the critical root zone (measurement of the dripline radius taken from the tree trunk to the tip of the farthest reaching branch as determined by a Certified Arborist or Registered Professional Forrester) of any tree to be retained shall be fenced with a four-foot high brightly colored synthetic fence at the outermost edge of the critical root zone to prevent injury to the trees prior to grading and during construction activities within the project area. The fencing shall remain in place until all construction activities are complete. Trenching, grading, soil compaction, parking of vehicles or heavy equipment, stockpiling of construction materials, and/or dumping of materials shall not be allowed within the critical root zone.

Finding 4: Loss of protected trees at the project site is considered a potentially significant impact. Implementation of the above mitigation measure would reduce this impact to a less than significant level.

Impact 5: The proposed project would potentially result in increased runoff entering the SCVWD Cochrane Channel, which is a tributary of Coyote Creek.

Mitigation 5: Mitigation Measure 3.8-3 in Section 3.8, Surface Water Hydrology and Water Quality, would require implementation of structural and non-structural stormwater controls as follows. The proposed project shall include structural and non-structural stormwater controls, in order to reduce non-point source pollutant loads.

Specifically, the detention ponds planned at the northern end of the project site to temporarily store post-development runoff shall be designed to provide water quality treatment through settling of sediments prior to the discharge of the stormwater to Cochrane Channel. These dual-purpose ponds will provide both stormwater detention and water quality treatment, to a sufficient level to comply with the amended Provision C.3 of the SCVURPPP NPDES Phase 2 Permit requirements, if those requirements are deemed to be applicable to the proposed project (see Section 3.8.2 Regulatory Setting, above, for a full discussion).

Additional post-construction Best Management Practices (BMPs) to be implemented will include, but not be limited to the following:

- Impervious surfaces such as roads, parking lots, and driveways shall be routinely cleaned during both the “wet” and “dry” seasons to limit the accumulation of “first flush” contaminants;
- Features such as detention ponds shall be utilized to capture pollutants before the stormwater runoff enters the storm drainage system;
- Engineered products, such as storm drain inlet filters, oil/water separators, vortex separators etc., shall be utilized to capture pollutants before the stormwater runoff enters the storm drainage system;
- The developer shall distribute educational materials to the first tenants of properties included in the project development. These materials shall address good housekeeping practices relating to stormwater quality, prohibited discharges, and proper disposal of hazardous materials;
- Common landscaped areas shall be subject to a program of efficient irrigation and proper maintenance including minimizing use of fertilizer, herbicides and pesticides;
- The project tenants and users shall implement a trash management and litter control program to mitigate the impacts of gross pollutants on storm water quality. This program shall include litter patrol, emptying trash receptacles in common areas, and reporting and investigating trash disposal violations;
- Storm drain inlets shall be labeled with the phrase “No dumping – flows to Bay,” or a similar phrase to mitigate the impact of potential for discharges of pollutants to the storm drain system;

- Restaurants within the development shall be designed to include contained areas for cleaning mats, containers and sinks connected to the sanitary sewers. Grease shall be collected and stored in a contained area and shall be removed regularly by a disposal recycling service. To this end, sinks shall be equipped with grease traps to provide for its collection.

The portion of the project SWPPP that addresses post-construction practices shall itemize these and any additional pollution control measures required for the proposed project.

Finding 5: Implementation of this mitigation measure would reduce the long-term potential of increased non-point source pollution in Coyote Creek to a less than significant level.

Impact 6: The proposed project, in addition to anticipated cumulative development in the project vicinity, may disturb special status species, critical habitats, and wildlife movement throughout the region.

Mitigation 6: Mitigation measures required elsewhere in the FEIR would reduce the overall contribution to cumulative biological resource impacts.

Finding 6: Implementation of mitigation measures incorporated in the FEIR would reduce the overall contribution to cumulative biological resource impacts resulting from completion of the proposed Project. Therefore, the project contributions to the potential loss and/or restriction of biological resources in the region are considered less than significant.

E. CULTURAL RESOURCES

Impact 1: The project site does not contain any recorded or anticipated resources of archaeological, cultural, or pre-historic significance. However, site preparation and grading could disrupt undiscovered archaeological and cultural resources of importance under CEQA and/or eligible for listing on the California Register.

Mitigation 1a: Should any previously undisturbed cultural, historic, or archaeological resources be uncovered in the course of site preparation, clearing or grading activities, all operations within 50 feet of the discovery shall be halted until such time as a can be consulted to evaluate the find and recommend appropriate action. If the find is determined to be significant, appropriate mitigation measures shall be formulated by the City of Morgan Hill and implemented by the project applicant.

Mitigation 1b: In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of Santa Clara County has determined whether the remains are subject to the coroner's authority. This is in accordance with Section 7050.5 of the California Health and Safety Code. If the human remains are of Native American origin, the coroner must notify the Native American Heritage

Commission within 24 hours of identification. Pursuant to Section 5097.98 of the Public Resource Code, the Native American Heritage Commission will identify a “Native American Most Likely Descendent” to inspect the site and provide recommendations for the proper treatment of the remains and any associated grave goods.

Finding 1: Any destruction or disturbance of undiscovered archaeological resources, whether planned or inadvertent, is considered a potentially significant impact. Implementation of the above listed mitigation measures would reduce this impact to a less than significant level.

Impact 2: Implementation of the proposed project, in combination with cumulative development activity in the region, would increase the potential to disturb or contribute to the loss of known and undiscovered cultural resources.

Mitigation 2: Mitigation Measures 3.5-1a and 3.5-1b of the FEIR would address impacts on a case by case basis, thus avoiding compounding of cumulative development.

Finding 2: Implementation of mitigation measures incorporated in the FEIR would ensure that the Project’s contribution to this cumulative impact will be reduced to a less than significant level.

F. GEOLOGY AND SOILS

Impact 1: Strong ground shaking occurring on the site during a major earthquake event could cause severe damage to project building s and structures.

Mitigation 1: Structural damage to buildings resulting from ground shaking shall be minimized by following the requirements of the California Building Code, and implementing the recommendations of the project geotechnical engineer.

Structures at the site shall be designed and constructed to withstand anticipated earthquake loads. A structural engineer, experienced in the design and construction of commercial structures within areas of high seismicity, shall be retained by the project applicant to provide design and construction recommendations, as required by the City of Morgan Hill. Any such recommendations shall be made in conjunction with Final Map submittals.

Finding 1: Implementation of the above mitigation measure would ensure that potential impacts to residents and structures from seismic ground shaking would be reduced to a less than significant level.

Impact 2: There is a low, but not necessarily insignificant, potential for liquefaction at the project site, which could result in differential settlements and damage to project structures and improvements.

Mitigation 2: All proposed structures at the project site shall be evaluated for liquefaction potential on a case-by-case basis as part of subsequent design-level geotechnical engineering investigations. If there is determined to be a potential for liquefaction, mitigation will be accomplished through compliance with the recommendations contained in the design-level geotechnical engineering reports with recommendations included as specifications in the construction contract documents.

Finding 2: Implementation of the above mitigation measure would reduce this impact to a less than significant level.

Impact 3: There is a potential for seismically-induced ground settlements at the site, which could result in damage to project foundations and structures.

Mitigation 3: Near-surface soils beneath buildings, exterior slabs, and pavements shall be overexcavated and recompacted, in accordance with the specifications to be recommended by the project geotechnical engineer.

The depth of required overexcavation will vary depending on whether the improvements to be supported consist of building pads or foundations, exterior slabs on grade, or pavement areas.

Finding 3: Implementation of the above mitigation measure would reduce this impact to a less than significant level.

Impact 4: Soils present on the site exhibit high compressibility and high collapse potential, which could result in damage to structures.

Mitigation 4: The effects of soil compressibility and collapse potential shall be mitigated through over-excavation and compaction of soil beneath proposed structures, in accordance with the specifications to be recommended by the project geotechnical engineer.

The depth of required over-excavation will vary depending on whether the improvements to be supported consist of building pads or foundations, exterior slabs on grade, or pavement areas.

Finding 4: Implementation of the above mitigation measure would reduce this impact to a less than significant level.

Impact 5: There is a low, but not necessarily insignificant, potential for soils expansion at the site, which could result in differential subgrade movements and cracking of foundations.

Mitigation 5: All final design specifications to be recommended by the project geotechnical engineer shall be incorporated into the project design, including placement of non-expansive engineered fill below foundation slabs, and other measures to prevent saturation of soils beneath structures to be specified by the geotechnical report.

Finding 5: Implementation of the above mitigation measure would reduce the effects of expansive soils at the project site to a less than significant level.

Impact 6: The project soils are mildly corrosive to buried metal objects, and could result in damage to buried utilities.

Mitigation 6: The proposed project shall utilize corrosion-resistant materials in construction. Buried metal objects would be protected by selecting materials resistant to mild corrosion per manufacturers' specifications.

Finding 6: Implementation of the above mitigation measure would reduce this potentially significant impact to a less than significant level.

Impact 7: There is a potential for bank instability along the banks of the proposed detention basins for the project.

Mitigation 7: Design-level geotechnical studies shall investigate the potential of bank instability at the proposed stormwater detention basins and recommend appropriate setbacks, if warranted. Final design recommendations to be recommended by the project geotechnical engineer shall be included as specifications in the construction contract documents.

Finding 7: Implementation of the above mitigation measure would reduce this potentially significant impact to a less than significant level.

G. HAZARDS AND HAZARDOUS MATERIALS

Impact 1: The project site includes three residences and associated outbuildings that are proposed for demolition with implementation of the proposed project. According to an asbestos and lead-based paint reconnaissance performed by Bovee Environmental Management, Inc., these existing structures contain asbestos and lead-based paint in hazardous concentrations.

Mitigation 1: Prior to demolition of any on-site structures, a full site assessment for lead-based paint shall be conducted by a California Department of Health Services approved Lead Inspector/Assessor. Prior to general demolition and site clearing activity, all identified deteriorating lead-based paint shall be removed by a licensed lead paint abatement contractor and properly disposed of in accordance with Title 22 of the California Code of Regulations.

Finding 1: Implementation of the above mitigation measure would reduce the effects of lead-based paint to a less than significant level.

Impact 2: There are four septic tanks reportedly present on the project site, although their locations were not identified during the Phase I site reconnaissance.

Mitigation 2: Septic systems at the project site shall be properly removed in accordance with state regulations and the requirements of the Santa Clara County Environmental Health Department.

Finding 2: Implementation of the above mitigation measure would reduce this impact to a less than significant level.

Impact 3: Unless the four existing wells on the site are properly destroyed, they could act as conduits for groundwater contamination.

Mitigation 3: Prior to commencement of site clearing and general demolition activities, the existing wells on the site shall be destroyed in accordance with state regulations and the requirements of the Santa Clara County Environmental Health Department and the Santa Clara Valley Water District (Ordinance 90-1), unless the existing well(s) will be used for landscape irrigation purposes. Use of the existing well(s) on-site for landscape irrigation may be allowed provided there is no connection to the City municipal water supply system, and subject to the review and approval of the Santa Clara Valley Water District.

Finding 3: Implementation of the above mitigation measure would reduce this impact to a less than significant level.

Impact 4: The proposed project includes a possible fuel station, which would involve potentially hazardous storage and handling of gasoline.

Mitigation 4: The gasoline station operator shall obtain a Hazardous Materials Storage Permit from the Santa Clara County Fire Department for the proper handling and storage of gasoline and any other hazardous materials. In addition, air quality permits shall be required for the fuel station from the BAAQMD.

Finding 4: Implementation of the above mitigation measure would reduce this impact to a less than significant level.

H. SURFACE WATER HYDROLOGY AND WATER QUALITY

Impact 1: Since the project site is located within the dam failure inundation area for Anderson Reservoir, development of the proposed project would increase the number of people and structures exposed to dam failure risk and the potential for associated loss of life and property.

Mitigation 1: Prior to occupancy of the structures, the project applicant shall prepare an emergency evacuation plan for the proposed project. The emergency evacuation plan procedures

shall be developed jointly with the project owner, City public safety staff, and potential tenants/users to identify appropriate emergency procedures in order to ensure the efficient and safe evacuation of employees and customers.

Finding 1: Implementation of the above mitigation measure would reduce this impact to a less than significant level.

Impact 2: During grading and construction, erosion of exposed soils and pollutants generated by site development activities may result in water quality impacts to downstream water bodies.

Mitigation 2: The project applicant shall prepare a comprehensive erosion control and water pollution prevention program, subject to review and approval by the City of Morgan Hill Public Works Department. This erosion and water pollution prevention program shall be implemented during grading and construction activities at the project site.

Finding 2: Implementation of the above mitigation measure would reduce potential water quality impacts during grading and construction activities to a less than significant level.

Impact 3: The proposed project would generate urban non-point contaminants, which may be carried in stormwater runoff from paved surfaces to downstream water bodies.

Mitigation 3: The proposed project shall include structural and non-structural stormwater controls, in order to reduce non-point source pollutant loads.

Specifically, the detention ponds planned at the northern end of the project site to temporarily store post-development runoff shall be designed to provide water quality treatment through settling of sediments prior to the discharge of the stormwater to Cochrane Channel. These dual-purpose ponds will provide both stormwater detention and water quality treatment, to a sufficient level to comply with the amended Provision C.3 of the SCVURPPP NPDES Phase 2 Permit requirements, if those requirements are deemed to be applicable to the proposed project (see Section 3.8.2 Regulatory Setting, above, for a full discussion).

Additional post-construction Best Management Practices (BMPs) to be implemented will include, but not be limited to the following:

- Impervious surfaces such as roads, parking lots, and driveways shall be routinely cleaned during both the “wet” and “dry” seasons to limit the accumulation of “first flush” contaminants;
- Features such as detention ponds shall be utilized to capture pollutants before the stormwater runoff enters the storm drainage system;

- Engineered products, such as storm drain inlet filters, oil/water separators, vortex separators etc., shall be utilized to capture pollutants before the stormwater runoff enters the storm drainage system;
- The developer shall distribute educational materials to the first tenants of properties included in the project development. These materials shall address good housekeeping practices relating to stormwater quality, prohibited discharges, and proper disposal of hazardous materials;
- Common landscaped areas shall be subject to a program of efficient irrigation and proper maintenance including minimizing use of fertilizer, herbicides and pesticides;
- The project tenants and users shall implement a trash management and litter control program to mitigate the impacts of gross pollutants on storm water quality. This program shall include litter patrol, emptying trash receptacles in common areas, and reporting and investigating trash disposal violations;
- Storm drain inlets shall be labeled with the phrase “No dumping – flows to Bay,” or a similar phrase to mitigate the impact of potential for discharges of pollutants to the storm drain system;
- Restaurants within the development shall be designed to include contained areas for cleaning mats, containers and sinks connected to the sanitary sewers. Grease shall be collected and stored in a contained area and shall be removed regularly by a disposal recycling service. To this end, sinks shall be equipped with grease traps to provide for its collection.

The portion of the project SWPPP that addresses post-construction practices shall itemize these and any additional pollution control measures required for the proposed project.

Finding 3: Implementation of the above mitigation measure would reduce this impact to a less than significant level.

Impact 4: The proposed project would result in a substantial increase in stormwater runoff generated at the project site compared to existing conditions; however, the project includes detention ponds which have been designed to provide temporary storage of increased runoff in order to prevent increased flooding downstream.

Mitigation 4: Subject to approval by the SCVWD, the project applicant shall install a telemetry system or other measure agreed upon by the SCVWD to minimize flooding downstream. A telemetry system senses the flow in Coyote Creek at a SCVWD stream gage system, and shuts down the pumping system at the detention ponds when creek discharges reach or exceed levels believed to cause flooding in the William Street area in the City of San Jose.

Finding 4: Implementation of the above mitigation measure would reduce this potentially significant impact to a less than significant level.

I. LAND USE

Impact 1: The proposed project would construct a 657,250 square-foot retail center that would consist of the relocation and expansion of the ‘Target’ store (currently located at the Cochrane Plaza shopping center) and construction of over 530,000 square feet of additional retail, which could include a home improvement store, wholesale store or department store; retail shops; restaurants (sit-down and fast food); and a 63,200 square foot multi-plex cinema with up to 14 screens. These retail uses would compete with existing businesses in the City of Morgan Hill. This increased competition could potentially result in or contribute to closure of existing businesses in the City of Morgan Hill and there is a high likelihood that the Cochrane Plaza would be subject to a causal chain ultimately resulting in urban decay.

Mitigation 1a: As a condition of approval for the proposed project, the Target Corporation will make a written commitment, using a mechanism such as a restriction or notice on their deed to the existing store property, to maintain their vacated existing store per the guidelines set out in the BAE report regarding abatement of physical decay and deterioration of buildings per the City of Morgan Hill Municipal Code. This maintenance will include but not be limited to prompt removal of trash and graffiti and upkeep of the vacant building to leasable standards for a modern community shopping center. This commitment will extend to successors in ownership if the Target Corporation sells the property prior to re-tenanting. This commitment will extend until a majority of the space in the vacant store is re-occupied for a period of at least 12 consecutive months.

Mitigation 1b: As an additional measure to assure proper maintenance of the vacated store, the Target Corporation will provide the City of Morgan Hill with a façade easement on the existing Target space. The facade easement will make it easier for the City and its Redevelopment Agency to step in and clean up the site and lien the property for reimbursement, if needed. The easement language can establish the maintenance standards to be followed. For this property, the easement language should give the City of Morgan Hill the right to enter onto the property and perform any deferred maintenance thereon as may be necessary to keep the property in good condition and repair, if the Target Corporation or successor in ownership (the “owner”) does not perform such maintenance itself within a set period of time after receiving notice of the need for maintenance. Such notice shall identify each item of maintenance and repair required to restore the landscaping and exterior facade on the property to good condition and repair. All costs of maintenance performed by the City of Morgan Hill shall be paid directly by the owner or be reimbursed to the City by the owner. The owner’s obligation to reimburse the City shall be secured by a lien encumbering the property, which lien shall be enforceable in accordance with the provisions of California Civil Code Section 2924 et seq., as amended. This façade easement will be granted for a period not to exceed five years, or until a majority of the space is re-occupied for a period of at least 12 consecutive months.

Mitigation 1c: The Target Corporation shall provide the City of Morgan Hill with a written re-tenanting plan for the vacant store. Every six months until the majority of the space is leased to a tenant(s) with a lease commitment of at least 12 months, or sold to another independent party, the Target Corporation shall provide to the City of Morgan Hill a progress report on efforts to re-lease the vacant space. The Target Corporation shall not put restrictions on the types of retailers permitted, e.g., they will not refuse to lease to a Target competitor. Permitted activities and land uses shall be solely governed by the City of Morgan Hill General Plan and the *City of Morgan Hill Planning and Zoning Codes*.

Finding 1/Overriding Consideration 1: Based on the analysis conducted by BAE, it cannot be stated with any degree of certainty that the mitigation measures would prevent urban decay in the Cochrane Plaza shopping center. Therefore, the proposed project would likely lead to a significant and unavoidable impact with respect to urban decay and physical deterioration at the Cochrane Plaza shopping center. The economic, social, and other benefits of the Project override the unmitigated significant impact described above, as more fully stated in the Statement of Overriding Considerations in Section 2 of the Resolution.

Impact 2: The proposed project would increase competition that could result in closure for major tenants in the Lawrence Oaks and Tennant Station shopping centers.

Mitigation 2a: There is a likelihood of closure for major tenants in the Lawrence Oaks (Home Depot), Tennant Station (Cinelux Theatres), and Cochrane Plaza (Target with the likelihood of other tenants following) If these centers (or others) face vacancies following the opening of the proposed project, the City of Morgan Hill will monitor maintenance of the vacated spaces and their centers for the first signs of disinvestment or deterioration, and require that these properties continue to be maintained to standards as stated in Section 15.56.020 of the Morgan Hill Municipal Code, such that the building will not endanger life, limb, health, property, safety, or welfare of the general public or its occupants. These standards are based on the International Conference of Building Officials “Uniform Code of the Abatement of Dangerous Buildings, 1997 Edition,” except where otherwise noted in the Section 15.56.020 of the Morgan Hill Municipal Code. The property shall be maintained in accordance with Morgan Hill Municipal Code Section 8 regarding Health and Safety, including but not limited to keeping premises free of litter, weeds, graffiti, and abandoned vehicles.

Mitigation 2b: To help small local businesses compete with likely national chain retailers in the proposed project, the City of Morgan Hill will fund programs aimed at assisting locally-owned small retailers. This could take the form of a business seminar sponsored by Target and the project developers to educate local retailers, or other programs geared toward small retail business assistance, such as a kiosk at the Proposed Project providing information on shopping opportunities in Downtown Morgan Hill or other centers. Such a program could be funded by the City of Morgan Hill committing a percentage of the sales tax revenue generated by the Proposed Project.

Mitigation 2c: City of Morgan Hill will ensure the Target Corporation, the other owners of Cochrane Plaza, and the owners of Tennant Station, Vineyard Town Center, and the Lawrence

Oaks Shopping Center are aware that their centers are in the City's Redevelopment Area, and as a result they are eligible to apply for programs administered by the City's Business Assistance Division, including the Facade Improvement Program, Impact Fee Financing Programs, and Business Assistance Guidelines.

Finding 2: Implementation of the above mitigation measures would ensure the proposed Project would have a less than significant impact on potential store closures at the Lawrence Oaks and Tennant Station shopping centers.

J. NOISE

Impact 1: The proposed project will result in an increase of approximately 22,009 daily weekday automobile trips on the existing roadway network, which will result in traffic noise level increases greater than 5 dBA L_{dn} over background conditions.

Mitigation 1: There are no feasible mitigation measures available to reduce the operational noise impacts to a less than significant level.

Finding 1/Overriding Consideration 1: According to the *City of Morgan Hill General Plan*, the property where these two single-family residences are located is designated for commercial uses and one of the single-family homes has been vacated. Due to the urbanization in the project vicinity, it is likely that these homes may be developed for commercial uses in the future. Therefore, this impact would be considered a short-term significant and unavoidable impact in the interim until these properties are developed for commercial uses. Future development on these properties would likely occur after buildout of the proposed Project. There are no feasible mitigation measures available to reduce the operational noise impacts to a less than significant level. See Statement of Overriding Considerations.

Impact 2: The proposed project would contribute to cumulative traffic on the roadway network over existing conditions, which would contribute to cumulative traffic noise at sensitive receptors along Cochrane Road.

Mitigation 2: There are no feasible mitigation measures available to reduce the cumulative traffic noise impacts to a less than significant level.

Finding 2/Overriding Consideration 2: According to the *City of Morgan Hill General Plan*, the property where these two single-family residences are located is designated for commercial uses and one of the single-family homes has been vacated. Due to the urbanization in the project vicinity, it is likely that these homes may be developed for commercial uses in the future. Therefore, this impact would be considered a short-term significant and unavoidable cumulative impact in the interim until these properties are developed for commercial uses. Future development on these properties would likely occur after buildout of the proposed Project. There are no feasible mitigation measures available to reduce the cumulative traffic noise impacts to a less than significant level. See Statement of Overriding Considerations.

K. PUBLIC SERVICES

Impact: The proposed project will not result in the need for new or physically altered governmental facilities, but will increase service demands for police patrol and incident response.

Mitigation: Subject to review and approval by the City of Morgan Hill Police Department, the project applicant shall install and maintain a video surveillance system throughout the proposed project and maintain on-site security personnel during all hours of operation, or provide other security measures acceptable to the Morgan Hill Police Department.

Finding: The above mitigation measure would limit police response to major crimes against persons or property and reduce service demands to a less than significant level.

L. TRANSPORTATION AND CIRCULATION

Impact 1: With the addition of project-generated traffic, significant level of service impacts would occur at two intersections, as follows:

- a. The Dunne Avenue/Monterey Road signalized intersection is projected to operate unacceptably during the PM peak hour under both Background and Project Conditions. Although the addition of project traffic causes a decrease (i.e., improvement) in the average critical delay, the critical volume-to-capacity ratio increases by more than 0.01.
- b. At the Cochrane Road/Mission View Drive unsignalized intersection, the addition of project traffic is expected to reduce acceptable levels of service under Background Conditions to an unacceptable level of service (LOS F) during the AM, PM, and Saturday midday peak hours.

Mitigation 1a: At the Dunne Avenue/Monterey Road intersection, the westbound right-turn lane shall be restriped as a shared through/right-turn lane, and a northbound right-turn overlap phase shall be installed. This improvement would be required when 35 percent of the project has been constructed based on total PM peak hour trip generation.

Mitigation 1b: At the Cochrane Road/Mission View Drive intersection, a traffic signal shall be installed with protected left-turn phasing on all approaches. In addition, this intersection shall be reconfigured to include the following geometry:

- The northbound approach should include one left-turn lane and one shared through/right-turn lane.

- The westbound approach should include one left-turn lane, one through lane, and one shared through/right-turn lane.
- The southbound approach should include one left-turn lane, one shared through/right-turn lane, and one right-turn lane.
- The eastbound approach should include one left-turn lane, one through lane, and one right-turn lane.

Finding 1: Implementation of the above mitigation measure would reduce this impact to a less than significant level.

Impact 2: The addition of project-generated traffic would have a significant impact on the level of service at the segment of U.S. Highway 101 between Tennant Avenue and Dunne Avenue.

Mitigation 2: The project shall implement the applicable actions listed in the *Immediate Implementation Action List* contained in the *Deficiency Plan Guidelines* of the County's Congestion Management Program, which are intended to encourage the use of non-automobile transportation modes and to help maximize the efficiency of the existing transportation system.

Finding 2/Overriding Consideration 2: The proposed Project will have a significant impact at the segment of U.S. Highway 101 between Tennant Avenue and Dunne Avenue. Implementation of the above measures would not reduce the Project traffic contribution to this freeway segment to less than one percent of current volumes. Therefore, the impact would not be reduced to less-than-significant levels and the Project traffic would result in a significant and unavoidable impact to this freeway segment. See Statement of Overriding Considerations.

Impact 3: The six entry driveways on Mission View Drive are more than are needed to provide adequate access to the proposed project. This condition unnecessarily increases the potential for vehicle conflicts with pedestrians.

Mitigation 3: The two driveways shown directly behind the movie theater complex on Mission View Drive (i.e., the second and third driveways north of the Cochrane Road intersection) should be eliminated from the proposed project, and a circulation aisle should be provided behind the movie theater complex. As an alternative, the project applicant shall work with the City to incorporate traffic calming improvements at the driveways located along Mission View Drive to minimize pedestrian and vehicle conflicts at the project site.

Finding 3: Implementation of the above mitigation measure would reduce this impact to a less than significant level.

Impact 4: At the southernmost project driveway on Mission View Drive (i.e., the first driveway north of the Cochrane Road intersection), the preliminary site plan shows no left-turn restrictions. Given the close proximity of this driveway to Cochrane Road, if left turns into the project site are allowed at this driveway, this could result in potential conflicts with vehicles queuing on the north leg of the Mission View/Cochrane intersection.

Mitigation 4: The southernmost project driveway should be designated as a right-turn in and out only driveway (i.e., signs should be posted prohibiting left turn movements into or out of the project site at this driveway).

Finding 4: Implementation of the above mitigation measure would reduce this impact to a less than significant level.

Impact 5: The main north-south circulation aisle that extends north into the project from DePaul Drive is a long straight section that may encourage speeding without traffic control devices.

Mitigation 5: The following modifications are identified on the main north-south circulation aisle to discourage speeding and provide more visible crosswalks for pedestrians:

- a) At the first intersection north of Cochrane (i.e., between Shops K and Pad 7, and between Shops B and Pad 2), stop signs should be installed on the side street approaches;
- b) At the second intersection north of Cochrane, provide one of the following alternative configurations:
 - i) Provide raised intersection to provide vertical displacement, and provide stop signs on the side street approaches; or
 - ii) Provide stop signs on all four approaches;
- c) At the third intersection north of Cochrane, provide stop signs on all four approaches.

Finding 5: Implementation of the above mitigation measure would reduce this impact to a less than significant level.

Impact 6: At the southwest corner of the building “Major 8” (on March 10, 2005 site plan), the proximity of the designated loading zone to the nearby intersection of two major internal drive aisles could create a driving hazard due to driver confusion.

Mitigation 6: The designated loading zone shall be relocated far enough to the east to allow the intersection approach lane to be reduced to one lane.

Finding 6: Implementation of the above mitigation measure would reduce this impact to a less than significant level.

Impact 7: Due to demand for transit service generated by the project, existing transit facilities may not be adequate to serve the project.

Mitigation 7: The project applicant shall construct a new covered bus stop along the project frontage, including transit amenities such as a bus turnout, a shelter, and benches. All improvements shall be in accordance with the Santa Clara Valley Transportation Authority (VTA) standards, with the exception of planting trees at the bus stop in order to provide a more comfortable and aesthetically pleasing environment. The City of Morgan Hill shall work with the project applicant, Caltrain, and the VTA on ways to increase the frequency and coverage of transit service serving the project area and the nearest Caltrain station. The City shall also aggressively pursue and work with VTA to provide the 'Community Bus Service' program in Morgan Hill.

Finding 7: Implementation of the above mitigation measure would reduce this impact to a less than significant level.

Impact 8: The preliminary project site plan does not indicate pedestrian crossing facilities at the major intersections adjacent to the project; unless these are provided, a hazard to pedestrian circulation could result.

Mitigation 8: Pedestrian crosswalks shall be provided on all four legs of the Cochrane Road/Mission View Drive intersection, and at all but the west leg of the Cochrane Road/De Paul Drive intersection.

Finding 8: Implementation of the above mitigation measure would reduce this impact to a less than significant level.

Impact 9: The proposed project would create a demand for bicycle facilities, including: a) bicycle racks or lockers within the project site; and b) bicycle lanes along the project frontages.

Mitigation 9: The following bicycle facilities shall be incorporated into the project:

- a) Bicycle racks and/or lockers to accommodate bicycle travel by customers and employees. Bicycle parking facilities should be located in high visibility areas in order to encourage bicycle travel and discourage theft and vandalism.
- b) Class II bicycle lanes along the project street frontages.

The *Santa Clara Valley Transportation Authority (VTA) Bicycle Technical Guidelines*, *VTA Community Design and Transportation Guidelines* and the *VTA Pedestrian Technical Guidelines* shall be used in design of the proposed bicycle facilities associated with the proposed project.

Finding 9: Implementation of the above mitigation measure would reduce this impact to a less than significant level.

Impact 10: The proposed project may not provide sufficient parking supply to meet the demand generated by the planned project land uses.

Mitigation 10: The overall number of parking spaces included in the project shall be required to meet the City code parking requirement as follows: the cinema shall be parked at 1 space for every 3.5 seats, and the remainder of the shopping center shall be parked at one space for every 283 square feet.

Finding 10: Based on research conducted by City Staff, the City parking requirements are consistent with the parking requirements of other jurisdictions. This supports City Staff's earlier assertions that the proportion of restaurants contemplated in the ITE rates in general is not 'minor'. Furthermore, the City's parking requirement is actually more conservative than the shared parking analysis prepared for the proposed Project. Implementation of the above mitigation measure would ensure that adequate parking is available on-site and would ensure that the proposed Project does not result in a potentially significant impact to parking at the Project site.

Impact 11: The addition of project-generated traffic would result in cumulative level of service impacts at the Cochrane Road/Mission View Drive intersection.

Mitigation 11: At the Cochrane Road/Mission View Drive intersection, a traffic signal shall be installed with protected left-turn phasing on all approaches. In addition, this intersection shall be reconfigured to include the following geometry:

- The northbound approach should include one left-turn lane and one shared through/right-turn lane.
- The westbound approach should include one left-turn lane, one through lane, and one shared through/right-turn lane.
- The southbound approach should include one left-turn lane, one shared through/right-turn lane, and one right-turn lane.
- The eastbound approach should include one left-turn lane, one through lane, and one right-turn lane.

Finding 11: Implementation of this mitigation measure would improve the level of service at the Cochrane Road/Mission View Drive intersection to acceptable levels (LOS D+ or better) under Cumulative Conditions. Therefore, the proposed project would result in a less than significant cumulative impact.

Impact 12: The addition of project-generated traffic would have a significant cumulative impact on the level of service at the segment of U.S. Highway 101 between Tennant Avenue and Dunne Avenue.

Mitigation 12: The project shall implement the applicable actions listed in the *Immediate Implementation Action List* contained in the *Deficiency Plan Guidelines* of the County's Congestion Management Program, which are intended to encourage the use of non-automobile transportation modes and to help maximize the efficiency of the existing transportation system.

Finding 12/Overriding Consideration 12: The traffic volume generated under this scenario would add volume greater than one percent to this freeway segment. Implementation of the above measure would not reduce the cumulative plus project traffic contribution to this freeway segment to less than one percent of current volumes. Therefore, the impact would not be reduced to less-than-significant levels and the cumulative plus project traffic would result in a significant and unavoidable cumulative impact to this freeway segment. See Statement of Overriding Considerations.

Impact 13: With the addition of project-generated traffic, significant impacts would occur at two intersections under General Plan Buildout Conditions, as follows:

- a) The Cochrane Road/Butterfield Boulevard signalized intersection is projected to operate at unacceptable LOS E- during the AM peak hour, and at unacceptable LOS F during the PM peak hour under General Plan Buildout Conditions.
- b) The Cochrane Road/Cochrane Plaza signalized intersection is expected to operate at unacceptable LOS D during the PM peak hour under General Plan Buildout Conditions.

Mitigation 13: The following intersection modifications are identified to provide acceptable operations under General Plan Buildout Conditions:

- a) Cochrane Road/Butterfield Boulevard. For the intersection to operate at LOS D+ or better during the AM and PM peak hours, the General Plan configuration for the intersection would require the following modifications:
 - Northbound approach: increase number of left-turn lanes from one to two; increase the number of through lanes from one to two; reduce the number of right-turn lanes from two to one.
 - Eastbound approach: add a free right-turn lane.

b) Cochrane Road/Cochrane Plaza. For the intersection to operate at LOS D+ or better during the PM peak hour, the General Plan configuration for the intersection would require the following modifications:

- Southbound approach: increase number of left-turn lanes from one to two; change the shared left/through lane to a through lanes; keep the number of right-turn lanes at one.

To implement the above mitigation measures, the applicant will be required to pay impact fees which reflect the Project's fair share of improvement costs.

Finding 13: Implementation of the above mitigation measure would reduce this impact to a less than significant level.

Impact 14: The 'Supermarket Alternative' (Project-Alternative 2) would result in a significant impact to three intersections operating at unacceptable levels: Cochrane Road/U.S. Highway 101 northbound ramps, Cochrane Road/Mission View Drive, and Dunne Road/Monterey Road.

Mitigation 14: Mitigation Measures 3.12-1a and 3.12-1b in the FEIR would reduce the potentially significant impacts to the Cochrane Road/Mission View Drive and Dunne Road/Monterey Road intersections to a less than significant level. In addition, the Project-Alternative 2 shall convert the westbound approach of the U.S. Highway 101/Cochrane Road intersection to provide one separate through lane and one shared through right-turn lane, subject to review and approval by Caltrans and the City of Morgan Hill., to improve the level of service at this intersection to LOS D during the Saturday peak hour.

Finding 14: Implementation of the above mitigation measures would reduce this impact to a less than significant level.

M. UTILITIES

Impact: The proposed project would generate between 0.8 and 8.3 tons of solid waste per day. The waste management provider responsible for the project has sufficient capacity to accommodate the waste within the Pacheco Pass Landfill in Morgan Hill, Kirby Creek Landfill in Milpitas, or BFI landfill in San Jose. Without sufficient waste diversion practices, however, the project may result in noncompliance with the California Integrated Waste Management Act of 1989.

Mitigation: Subject to review and approval by the City of Morgan Hill, the project applicant shall locate and maintain recycling receptacles for corrugated cardboard, mixed paper, food and beverage containers, and landscaping waste. Such receptacles shall be located adjacent to the garbage dumpsters serving the businesses personnel generating such waste. Contracts for or maintenance the collection of these recyclables shall also be maintained as available.

Finding: Implementation of this mitigation measure would reduce long-term impacts to waste diversion goals to a less than significant level by ensuring compliance with state mandated source reduction and recycling goals.

III. ALTERNATIVES TO PROPOSED PROJECT

Because all significant effects as discussed above cannot be eliminated or substantially lessened by mitigations in the Project, several alternatives were evaluated. Alternatives evaluated included the following:

A. NO PROJECT/NO DEVELOPMENT: CEQA Guidelines Section 15126.6(e)(3) requires that a 'No Project/No Development Alternative' be evaluated as part of an EIR, proceeding along one of two lines: the project site remaining in its existing undeveloped state, or development of the project site under existing underlying land use designations. The 'No Project/No Development Alternative' considers the comparative environmental effects of not approving the proposed project, with the site remaining in its current rural residential and agricultural state, since the underlying General Plan land use designation of 'Commercial' would result in a similar project as is currently proposed. The 'No Project/No Development' alternative was found to be the environmentally superior alternative, as most impacts would be reduced relative to the proposed project. However, the 'No Project/No Development' meets none of the project objectives and is inconsistent with the General Plan and zoning designations of the site.

B. SUPERMARKET ALTERNATIVE: The 'Supermarket Alternative' assumes replacement of approximately 50,000 square feet of commercial uses and construction of a 50,000 square foot supermarket at the project site. The intent of the 'Supermarket Alternative' is to meet Policy 9g in the *City of Morgan Hill General Plan*, which plans for a future grocery store east of U.S. Highway 101 along Cochrane Road. All other components of the 'Supermarket Alternative' would be similar to the proposed project. If this alternative were selected all mitigation measures incorporated herein would be applicable and one additional traffic mitigation measure would be required for transportation and circulation.

C. REDUCED DENSITY ALTERNATIVE: This alternative assumes a 40 percent reduction in the square footage to a 394,350 square foot commercial shopping center on a reduced footprint of approximately 40 acres, which would provide a buffer around the project site. A reduced commercial would generate less traffic, and subsequently result in a decrease in noise emissions in comparison to the proposed project. After the 'No Project/No Development' alternative, the 'Reduced Density Alternative' would be the environmentally superior alternative and would result in a lesser degree of environmental impact as compared to the proposed project. This is due primarily to the reduced impacts that would result from the reduced square footage. However, this scenario would not be financially feasible to the project applicant and would not meet the applicant's project objectives or the City's objectives to provide commercial retail shopping center that serves the local and regional market, results in a net fiscal benefit to the City, reduces sales dollar leakage, and creates

new jobs for the City of Morgan Hill.

D. ALTERNATE LOCATION ALTERNATIVE: The ‘Alternate Location Alternative’ is located at the southeast corner of the Cochrane Road and U.S. Highway 101 intersection, immediately south of the project site and is comprised of six parcels (APN: 728-30-006, 008, and 009 and 728-31-009, 010, 011). This site is approximately 58.75 acres (approximately 7.74 acres less than the project site). Access to this site is provided by Cochrane Road and De Paul Drive. This alternative would include the same range of land uses as the proposed Project, however, would result in greater impacts. The alternate location is at a lower elevation than the proposed Project, and therefore, would result in a slightly greater visual impact based on visibility from northbound U.S. Highway 101. Greater impacts are anticipated under Land Use and Planning with this alternative, as the zoning would be inconsistent for approximately two thirds of the site. In addition, this location is not identified in the *City of Morgan Hill General Plan* as the location of ‘Sub-Regional Commercial Site’, and a General Plan Amendment would be required to amend the southern portion of the site that is designated for industrial uses in the *City of Morgan Hill General Plan*. Finally, the ‘Alternate Location Alternative’ would result in the same number of vehicle trips as the proposed project, which would result in similar traffic distribution and impacts as the proposed project. As the ‘Alternate Location Alternative’ is approximately 7.74 acres less than the Project site, the parking impacts associated with this alternate site location would likely be greater than the proposed Project.

IV. STATEMENT OF OVERRIDING CONSIDERATIONS

After very extensive review of the entire administrative record, including the Draft and Final EIR, the staff reports, and the oral and written testimony, it is concluded that specific economic, social and employment opportunities justify the approval of the Project-Alternative 2 (‘Supermarket Alternative’), in spite of the existence of significant environmental effects which cannot be fully mitigated and in spite of other alternatives which might be environmentally superior.

The specific overriding considerations include the following:

- A. The Project site clearly is suited for intense development, given its excellent freeway visibility, proximity and accessibility.
- B. The Morgan Hill General Plan designates only two locations in the City for a ‘Sub-Regional Commercial Site’ of which the Project is one.
- C. Project-Alternative 2 is consistent with the City’s General Plan Policy to plan for a future grocery store east of U.S. Highway 101 along Cochrane Road.
- D. The economic impact study prepared for the DEIR estimates that Morgan Hill experiences approximately \$100M in annual sales tax leakage. The Project would capture a large portion of the sales tax dollars currently being spent outside of the community.

- E. Development of this Project is estimated to generate an approximate average of \$2.25M annually to the City in property and sales tax revenue over a 15 year period. Based on the DEIR's recapture rate, over 70% or \$1.6M of the \$2.25M is considered to be "net" new revenue to the City. The City would receive approximately \$1.6M more annually in revenue than it would if this Project was not developed.
- F. Development of this Project will provide a commercial retail shopping center that serves both the local and regional market to attract new customers and retailers into the City, and create new jobs for Morgan Hill residents.
- G. Development of this Project will meet a current unmet demand for a large scale development that provides a mix of commercial, retail, restaurants and entertainment uses.

V. CUSTODIANSHIP OF THE PUBLIC RECORD

The custodian of documents and other materials which constitute the record of proceedings, upon which this decision is based is the following:

City Clerk
City of Morgan Hill City Clerk's Office
17555 Peak Avenue
Morgan Hill, CA 95037

Copies of these documents are available for public review during normal business hours.

Exhibit B

MITIGATION MONITORING AND
REPORTING PROGRAM
FOR THE
COCHRANE ROAD PLANNED UNIT
DEVELOPMENT (PUD)

SCH #2004112060

CITY OF MORGAN HILL
Community Development Department
17555 Peak Avenue
Morgan Hill, CA 95037-4128

Prepared by:



NOVEMBER 2005

MITIGATION MONITORING AND REPORTING PROGRAM

PROGRAM CONTENTS

This mitigation monitoring and reporting program includes a brief discussion of the legal basis and purpose of the mitigation monitoring and reporting program, a key to understanding the monitoring matrix, and the mitigation monitoring and reporting matrix itself.

LEGAL BASIS AND PURPOSE OF THE MITIGATION MONITORING PROGRAM

Public Resource Code (PRC) 21081.6 requires public agencies to adopt mitigation monitoring or reporting programs whenever certifying an environmental impact report or mitigated negative declaration. This requirement facilitates implementation of all mitigation measures adopted through the California Environmental Quality Act (CEQA) process.

The Governor's Office of Planning and Research advisory publication, *Tracking CEQA Mitigation Measures*, provides local governments basic information and practical advice concerning compliance with mitigation monitoring and reporting programs. Correspondingly, this document incorporates the suggestions contained within the advisory publication and from research on similar monitoring programs.

MONITORING MATRIX

The following pages provide a series of tables identifying the mitigation measures proposed specifically for the proposed project. These mitigation measures are derived from the *Cochrane Road Planned Unit Development Draft Environmental Impact Report* (July 2005). The columns within the tables have the following meanings:

Mitigation Measure:	Provides the text of the Mitigation Measure identified in the Environmental Impact Report.
Responsible Agency:	References the public agency or department (City of Morgan Hill) and/or any other agency responsible for monitoring and verification of compliance of the identified mitigation measure. The agencies listed are responsible for clearing the mitigation measure.
Monitoring/Reporting Done By:	Identifies by whom the monitoring or reporting will be done, which may include the applicant, applicant's consultant or contractor.

MITIGATION MONITORING AND REPORTING PROGRAM

Timing/Frequency:	Identifies at what point in time, review process or phase of the project the measure will be completed.
Final Clearance Date:	These columns will be initialed and dated by the individual designated to verify adherence to project specific mitigation.
Comments:	This column is reserved for any additional explanation or notes made during compliance monitoring, if necessary.

The Mitigation Measures in the matrix represent the final version of the measures to be considered by the City Council.

NONCOMPLIANCE

Any person or agency may file a complaint asserting noncompliance with the mitigation measures associated with the project. The complaint shall be directed to the City of Morgan Hill in written form providing specific information on the asserted violation. The City of Morgan Hill shall initiate an investigation and determine the validity of the complaint; if noncompliance with a mitigation measure has occurred, the City shall initiate appropriate actions to remedy any violation. The complainant shall receive written confirmation indicating the results of the investigation or the final action corresponding to the particular noncompliance issue.

MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Number	Mitigation Measure	Responsible Agency/ Department	Monitoring/Reporting Done By	Timing/ Frequency	Final Clearance Date	Comments
AESTHETICS						
MM 3.1-1	The project applicant shall prepare and submit a detailed exterior lighting plan that indicates the location and type of lighting that will be used at the project site. The lighting plan shall be consistent with Section 18.74.370 of the City of Morgan Hill Municipal Code. All external lighting shall be indicated on project improvement plans, subject to review and approval by the City of Morgan Hill.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Prior to approval of final improvement plans		
AIR QUALITY						
MM 3.3-1	Prior to demolition of any on-site structures, the project applicant shall conduct a full site assessment for asbestos-containing materials (ACM) by a California Certified Asbestos Consultant for all structures proposed for demolition. Prior to demolition and site clearing activity, all identified ACM shall be removed by a licensed asbestos abatement contractor and clearance shall be obtained from the BAAQMD before proceeding with the demolition. All ACM shall be transported to a disposal site approved to accept non-friable asbestos-containing waste.	City of Morgan Hill Community Development Department and BAAQMD	City of Morgan Hill Community Development Department/Project Applicant	Prior to demolition activities		
MM 3.3-2a	The project applicant shall implement the following recommended BAAQMD dust control measures for construction emissions of PM ₁₀ . These dust control measures shall be implemented during construction for all phases of the proposed project: <ul style="list-style-type: none"> • Sprinkle water to all active construction areas at least twice daily and more often when conditions warrant; • Cover all trucks hauling soil, sand and other loose materials or require all trucks to maintain at least two feet of freeboard; • Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, 	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	During construction activities		

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	<p>parking areas and staging areas at construction sites;</p> <ul style="list-style-type: none"> • Sweep daily all paved access roads, parking areas, and staging areas at construction sites; • Sweep streets daily if visible soil material is carried onto adjacent public streets; • Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas; • Enclose, cover, water twice daily, or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.); • Limit traffic speeds on unpaved roads to 15 miles per hour; • Install sandbags or other erosion control measures to prevent silt runoff to public roadways; • Replant vegetation in disturbed areas as quickly as possible; • Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site; • Suspend grading activities when winds exceed 25 miles per hour (mph) and visible dust clouds cannot be prevented from extending beyond active construction areas; and • Limit the area subject to excavation, grading and other construction activity at any one time. <p>The project applicant shall incorporate as many BAAQMD recommended reduction measures, as reasonably possible, into the trip reduction plan including the following: providing public service announcements including the 'Spare the Air' advertisement at the project's cinema and provide employees with parking cash-out incentive to reduce the likelihood of driving alone.</p>					

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MM-3.3-2b	Subject to approval by the City of Morgan Hill, the project applicant shall limit the pieces of diesel-powered construction equipment used at any one time, and limit the idling and hours of operation for heavy-duty equipment as feasible during construction of the proposed project to limit the emission of diesel exhaust. Gasoline-powered equipment shall be used as an alternative to diesel to the extent feasible and when comparable equipment and technology is available.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	During construction activities		
MM 3.3-3a	<p>A facilities 'trip reduction plan' shall be implemented by the project applicant to reduce single occupant vehicle commute trips by employees and promote non-auto travel by both employees and patrons. The facilities trip reduction plan may include, but not be limited to elements that would reduce traffic, and thus air pollutant emissions as described below:</p> <ul style="list-style-type: none"> • Provide one bus stop/shelter with pedestrian access to the project site. Implementation of this measure could reduce project emissions by approximately two percent. • Bicycle amenities should be provided at the project site once the proposed project is in operation. Bicycle amenities could include secure bicycle parking for employees, bicycle racks for customers, and bike lane connections. This vehicle trip reduction measure may reduce emissions associated with the proposed project by approximately two percent. • Pedestrian facilities should link the future transit stop and access roadways to the major sites uses. This trip reduction measure may reduce emissions by approximately one percent. • Designate a portion of the parking lot for weekday 'park-and-ride' parking spaces (the excess between 	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Prior to operation of the proposed project		

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	<p>weekday peak and weekend peak) which would reduce emissions from traffic to the project site by allowing commuters to park their car and carpool or take transit.</p> <ul style="list-style-type: none"> Require employers at the project site to post transit rates and scheduling information on bulletin boards. This vehicle trip reduction measure may reduce emissions by one percent. <p>The project applicant shall incorporate as many BAAQMD recommended reduction measures, as reasonably possible, into the trip reduction plan including the following: providing public service announcements including the 'Spare the Air' advertisement at the project's cinema and provisions to provide employees with a parking cash-out incentive to reduce the likelihood of driving alone.</p>					
MM 3.3-3b	<p>Subject to review and approval by the City of Morgan Hill, the proposed project shall integrate the following design features into the proposed project to reduce area source air quality emissions:</p> <ul style="list-style-type: none"> Carefully select and locate trees to provide shade for structures and pathways within the project site during the summer months. Deciduous trees should be favored since they provide shade in the summer and allow sun to reach residences during cold and winter months. This measure should be focused on southern and western exposures of buildings; Incorporate as many energy conserving features as financially feasible into the design and construction of new buildings at the project site. Examples include, but are not limited to, increased wall and ceiling insulation (beyond code requirements), super insulated windows (triple pane) and maximum use of energy efficient lighting; 	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	In conjunction with final map submittals		

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MM 3.3-3b (cont.)	<ul style="list-style-type: none"> Install super-efficient heating, ventilation, and air conditioning (HVAC) systems; and Incorporate light colored and reflective roofing materials into the project design. 					
BIOLOGICAL RESOURCES						
MM 3.4-1a	The project applicant shall retain a qualified biologist approved by the City of Morgan Hill to conduct a preconstruction survey for nesting burrowing owls at the project site no more than 30 days prior to ground disturbance. Depending on whether construction will begin during the nesting season (typically February 1 st through August 30 th), any owls inhabiting the site shall either: (a) during the nesting season be protected from disturbance through establishment of avoidance areas where no personnel or equipment are allowed to enter within a certain distance of the occupied burrow (distance determined by the biologist onsite following Burrowing Owl Consortium recommendations) or (b) outside of the nesting season be excluded and/or passively relocated by the biologist. Also, the qualified biologist shall be present during all phases of initial ground clearing to monitor for the presence of burrowing owl. Should a previously undetected owl emerge during clearing, all activity within the vicinity of the burrow (distance to be determined by the biologist) shall cease until the proper avoidance/exclusion measures are implemented and the biologist deems disturbance potential to be minimal.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant and Qualified Biologist	Prior to commencement of construction activities		

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MM 3.4-1b	The project applicant shall compensate for loss of burrowing owl habitat located at the site by complying with the Citywide Burrowing Owl Habitat Mitigation Plan and fee program (Morgan Hill 2003).	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Prior to operation of the proposed project		
MM 3.4-2	If proposed construction activities are planned to occur during the nesting seasons for local avian species (typically February 1 st through August 31 st), the project applicant shall retain a qualified biologist approved by the City to conduct a focused survey for active nests of raptors and migratory birds within and in the vicinity (i.e., any suitable breeding habitat in accessible parcels adjacent to the project area that the biologist deems could be disturbed by construction activities) of the construction area no more than 30 days prior to ground disturbance. If active nests are located during preconstruction surveys, construction activities shall be restricted as deemed necessary by the qualified biologist to avoid disturbance of the nest until it is abandoned or the biologist deems disturbance potential to be minimal. Restrictions may include establishment of exclusion zones (no ingress of personnel or equipment at a minimum radius of 100-feet or as determined by a qualified biologist around the nest) or alteration of the construction schedule. No action is necessary if construction will occur during the nonbreeding season (generally September 1 st through January 31 st).	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant and Qualified Biologist	Prior to commencement of construction activities		
MM 3.4-3	The project applicant shall retain a qualified biologist approved by the City of Morgan Hill to conduct a focused preconstruction survey for possible roost sites of special status bat species within the project area. The survey shall be conducted no more than 45 days prior to the onset of ground disturbance or major construction activities. If bat species or roosts are identified within the project area during	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant and Qualified Biologist	Prior to commencement of construction activities		

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MM 3.4-3 (cont.)	<p>preconstruction surveys, the biologist in coordination with the applicant shall (at a minimum):</p> <ul style="list-style-type: none"> a) Identify species present within the roost (this may require the assistance of a biologist who specializes in bat ecology); b) Install bat boxes at a location determined through obtaining technical guidance from the USFWS and/or DFG (box specifications and number to be determined based on the size of the roost and type of species present); and c) Install one-way bat doors at the roost to prohibit bat re-entry once the bat boxes are available. <p>Additionally, the applicant shall postpone any project-related activity that would damage or disturb the roost site until the biologist deems no bat species to be in jeopardy. The project applicant, to the extent possible, shall also implement USFWS and/or DFG recommendations (obtained through technical guidance) for minimizing the potential to take bat species during construction. If bat species are not identified onsite during the preconstruction survey, no further action is necessary.</p>					
MM 3.4-4	<p>Removal and/or relocation of trees at the project site shall be in compliance with Sections 12.32.030 through 12.32.080 of the City of Morgan Hill Municipal Code, Restrictions on Removal of Significant Trees. Should the City of Morgan Hill require the project applicant to preserve any existing trees in place and/or transplant any trees at the project site, the following tree protection standards shall be implemented during construction and demolition activities at the project site:</p>	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant and Certified Arborist or Registered Professional Forester	Prior to commencement of construction activities		

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MM 3.4-4 (cont.)	Prior to commencement of construction activities, to the greatest extent feasible, the critical root zone (measurement of the dripline radius taken from the tree trunk to the tip of the farthest reaching branch as determined by a Certified Arborist or Registered Professional Forrester) of any tree to be retained shall be fenced with a four-foot high brightly colored synthetic fence at the outermost edge of the critical root zone to prevent injury to the trees prior to grading and during construction activities within the project area. The fencing shall remain in place until all construction activities are complete. Trenching, grading, soil compaction, parking of vehicles or heavy equipment, stockpiling of construction materials, and/or dumping of materials shall not be allowed within the critical root zone.					
CULTURAL RESOURCES						
MM 3.5-1a	Should any previously undisturbed cultural, historic, or archaeological resources be uncovered in the course of site preparation, clearing or grading activities, all operations within 50 feet of the discovery shall be halted until such time as a can be consulted to evaluate the find and recommend appropriate action. If the find is determined to be significant, appropriate mitigation measures shall be formulated by the City of Morgan Hill and implemented by the project applicant.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	During grading and excavation activities		
MM 3.5-1b	In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of Santa Clara County has determined whether the remains are subject to the coroner's authority. This is in accordance with Section 7050.5 of the	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	During grading and excavation activities		

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MM 3.5-1b (cont.)	California Health and Safety Code. If the human remains are of Native American origin, the coroner must notify the Native American Heritage Commission within 24 hours of identification. Pursuant to Section 5097.98 of the Public Resource Code, the Native American Heritage Commission will identify a "Native American Most Likely Descendent" to inspect the site and provide recommendations for the proper treatment of the remains and any associated grave goods.					
GEOLOGY AND SOILS						
MM 3.6-1	Structural damage to buildings resulting from ground shaking shall be minimized by following the requirements of the California Building Code, and implementing the recommendations of the project geotechnical engineer. Structures at the site shall be designed and constructed to withstand anticipated earthquake loads. A structural engineer, experienced in the design and construction of commercial structures within areas of high seismicity, shall be retained by the project applicant to provide design and construction recommendations, as required by the City of Morgan Hill. Any such recommendations shall be made in conjunction with Final Map submittals.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	In conjunction with final map submittals		
MM 3.6-2	All proposed structures at the project site shall be evaluated for liquefaction potential on a case-by-case basis as part of subsequent design-level geotechnical engineering investigations. If there is determined to be a potential for liquefaction, mitigation will be accomplished through compliance with the recommendations contained in the design-level geotechnical engineering reports with recommendations included as specifications in the construction contract documents.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	In conjunction with final map submittals		

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MM 3.6-3	Near-surface soils beneath buildings, exterior slabs, and pavements shall be overexcavated and recompacted, in accordance with the specifications to be recommended by the project geotechnical engineer. The depth of required overexcavation will vary depending on whether the improvements to be supported consist of building pads or foundations, exterior slabs on grade, or pavement areas.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	In conjunction with final map submittals		
MM 3.6-4	The effects of soil compressibility and collapse potential shall be mitigated through over-excavation and compaction of soil beneath proposed structures, in accordance with the specifications to be recommended by the project geotechnical engineer. The depth of required over-excavation will vary depending on whether the improvements to be supported consist of building pads or foundations, exterior slabs on grade, or pavement areas.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	In conjunction with final map submittals		
MM 3.6-5	All final design specifications to be recommended by the project geotechnical engineer shall be incorporated into the project design, including placement of non-expansive engineered fill below foundation slabs, and other measures to prevent saturation of soils beneath structures to be specified by the geotechnical report.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department /Project Applicant and Geotechnical Engineer	In conjunction with final map submittals		
MM 3.6-6	The proposed project shall utilize corrosion-resistant materials in construction. Buried metal objects would be protected by selecting materials resistant to mild corrosion per manufacturers' specifications.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department /Project Applicant and Geotechnical Engineer	Include as specifications in the construction contract documents		

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MM 3.6-7	Design-level geotechnical studies shall investigate the potential of bank instability at the proposed stormwater detention basins and recommend appropriate setbacks, if warranted. Final design recommendations to be recommended by the project geotechnical engineer shall be included as specifications in the construction contract documents.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department /Project Applicant and Geotechnical Engineer	Include as specifications in the construction contract documents		
HAZARDS AND HAZARDOUS MATERIALS						
MM 3.7-1	Prior to demolition of any on-site structures, a full site assessment for lead-based paint shall be conducted by a California Department of Health Services approved Lead Inspector/Assessor. Prior to general demolition and site clearing activity, all identified deteriorating lead-based paint shall be removed by a licensed lead paint abatement contractor and properly disposed of in accordance with Title 22 of the California Code of Regulations.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Prior to demolition and site clearing		
MM 3.7-2	Septic systems at the project site shall be properly removed in accordance with state regulations and the requirements of the Santa Clara County Environmental Health Department.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Prior to demolition and site clearing		

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MM 3.7-3	Prior to commencement of site clearing and general demolition activities, the existing wells on the site shall be destroyed in accordance with state regulations and the requirements of the Santa Clara County Environmental Health Department and the Santa Clara Valley Water District (Ordinance 90-1), unless the existing well(s) will be used for landscape irrigation purposes. Use of the existing well(s) on-site for landscape irrigation may be allowed provided there is no connection to the City municipal water supply system, and subject to the review and approval of the Santa Clara Valley Water District.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Prior to demolition and site clearing		
MM 3.7-4	The gasoline station operator shall obtain a Hazardous Materials Storage Permit from the Santa Clara County Fire Department for the proper handling and storage of gasoline and any other hazardous materials. In addition, air quality permits shall be required for the fuel station from the.	Santa Clara County Fire Department/ BAAQMD	City of Morgan Hill Community Development Department/Project Applicant	Prior to operation of the gasoline station		
SURFACE WATER HYDROLOGY AND WATER QUALITY						
MM 3.8-1	Prior to occupancy of the structures, the project applicant shall prepare an emergency evacuation plan for the proposed project. The emergency evacuation plan procedures shall be developed jointly with the project owner, City public safety staff, and potential tenants/users to identify appropriate emergency procedures in order to ensure the efficient and safe evacuation of employees and customers.	City of Morgan Hill Community Development Department and Police Department	City of Morgan Hill Community Development Department/Project Applicant	Prior to occupancy of the structures		
MM 3.8-2	The project applicant shall prepare a comprehensive erosion control and water pollution prevention program, subject to review and approval by the City of Morgan Hill Public Works Department. This erosion and water pollution prevention program shall be implemented during grading and construction activities at the project site.	City of Morgan Hill Public Works Department	City of Morgan Hill Community Development Department/Project Applicant	Prior to and during grading and construction activities		

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MM 3.8-3	<p>The proposed project shall include structural and non-structural stormwater controls, in order to reduce non-point source pollutant loads.</p> <p>Specifically, the detention ponds planned at the northern end of the project site to temporarily store post-development runoff shall be designed to provide water quality treatment through settling of sediments prior to the discharge of the stormwater to Cochrane Channel. These dual-purpose ponds will provide both stormwater detention and water quality treatment, to a sufficient level to comply with the amended Provision C.3 of the SCVURPPP NPDES Phase 2 Permit requirements, if those requirements are deemed to be applicable to the proposed project (see Section 3.8.2 Regulatory Setting, above, for a full discussion).</p> <ul style="list-style-type: none"> • Impervious surfaces such as roads, parking lots, and driveways shall be routinely cleaned during both the "wet" and "dry" seasons to limit the accumulation of "first flush" contaminants; • Features such as detention ponds shall be utilized to capture pollutants before the stormwater runoff enters the storm drainage system; 	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	In conjunction with final map submittals and during operation of the proposed project		

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MM 3.8-3 (cont.)	<ul style="list-style-type: none"> Engineered products, such as storm drain inlet filters, oil/water separators, vortex separators etc., shall be utilized to capture pollutants before the stormwater runoff enters the storm drainage system; The developer shall distribute educational materials to the first tenants of properties included in the project development. These materials shall address good housekeeping practices relating to stormwater quality, prohibited discharges, and proper disposal of hazardous materials; Common landscaped areas shall be subject to a program of efficient irrigation and proper maintenance including minimizing use of fertilizer, herbicides and pesticides; The project tenants and users shall implement a trash management and litter control program to mitigate the impacts of gross pollutants on storm water quality. This program shall include litter patrol, emptying trash receptacles in common areas, and reporting and investigating trash disposal violations; Storm drain inlets shall be labeled with the phrase "No dumping – flows to Bay," or a similar phrase to mitigate the impact of potential for discharges of pollutants to the storm drain system; Restaurants within the development shall be designed to include contained areas for cleaning mats, containers and sinks connected to the sanitary sewers. Grease shall be collected and stored in a contained area and shall be removed regularly by a disposal recycling service. To this end, sinks shall be equipped with grease traps to provide for its collection. 					

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MM 3.8-3 (cont.)	The portion of the project SWPPP that addresses post-construction practices shall itemize these and any additional pollution control measures required for the proposed project.					
MM 3.8-4	Subject to approval by the SCVWD, the project applicant shall install a telemetry system or other measure agreed upon by the SCVWD to minimize flooding downstream. A telemetry system senses the flow in Coyote Creek at a SCVWD stream gage system, and shuts down the pumping system at the detention ponds when creek discharges reach or exceed levels believed to cause flooding in the William Street area in the City of San Jose.	City of Morgan Hill Community Development Department and SCVWD	City of Morgan Hill Community Development Department/Project Applicant	Prior to operation of the proposed project		
LAND USE						
MM 3.9-1	As a condition of approval for the proposed project, the Target Corporation will make a written commitment, using a mechanism such as a restriction or notice on their deed to the existing store property, to maintain their vacated existing store per the guidelines set out in the BAE report regarding abatement of physical decay and deterioration of buildings per the City of Morgan Hill Municipal Code. This maintenance will include but not be limited to prompt removal of trash and graffiti and upkeep of the vacant building to leasable standards for a modern community shopping center. This commitment will extend to successors in ownership if the Target Corporation sells the property prior to re-tenanting. This commitment will extend until a majority of the space in the vacant store is re-occupied for a period of at least 12 consecutive months.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department and Business Assistance and Housing Services /Project Applicant	The written commitment will extend until a majority of the space in the vacant store is re-occupied for a period of at least 12 consecutive months		

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MM 3.9-2	As an additional measure to assure proper maintenance of the vacated store, the Target Corporation will provide the City of Morgan Hill with a façade easement on the existing Target space. The facade easement will make it easier for the City and its Redevelopment Agency to step in and clean up the site and lien the property for reimbursement, if needed. The easement language can establish the maintenance standards to be followed. For this property, the easement language should give the City of Morgan Hill the right to enter onto the property and perform any deferred maintenance thereon as may be necessary to keep the property in good condition and repair, if the Target Corporation or successor in ownership (the "owner") does not perform such maintenance itself within a set period of time after receiving notice of the need for maintenance. Such notice shall identify each item of maintenance and repair required to restore the landscaping and exterior facade on the property to good condition and repair. All costs of maintenance performed by the City of Morgan Hill shall be paid directly by the owner or be reimbursed to the City by the owner. The owner's obligation to reimburse the City shall be secured by a lien encumbering the property, which lien shall be enforceable in accordance with the provisions of California Civil Code Section 2924 et seq., as amended. This façade easement will be granted for a period not to exceed five years, or until a majority of the space is re-occupied for a period of at least 12 consecutive months.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department and Business Assistance and Housing Services /Target Corporation or successor in ownership	The façade easement will be granted for a period not to exceed five years, or until a majority of the space is re-occupied for a period of at least 12 consecutive months		

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MM 3.9-3	The Target Corporation shall provide the City of Morgan Hill with a written re-tenanting plan for the vacant store. Every six months until the majority of the space is leased to a tenant(s) with a lease commitment of at least 12 months, or sold to another independent party, the Target Corporation shall provide to the City of Morgan Hill a progress report on efforts to re-lease the vacant space. The Target Corporation shall not put restrictions on the types of retailers permitted, e.g., they will not refuse to lease to a Target competitor. Permitted activities and land uses shall be solely governed by the City of Morgan Hill General Plan and the <i>City of Morgan Hill Planning and Zoning Codes</i>	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department and Business Assistance and Housing Services /The Target Corporation	Every six months until the majority of the space is leased to a tenant(s) with a lease commitment of at least 12 months, or sold to another independent party, the Target Corporation shall provide to the City of Morgan Hill a progress report on efforts to re-lease the vacant space.		
MM 3.9-4	There is a likelihood of closure for major tenants in the Lawrence Oaks (Home Depot), Tennant Station (Cinelux Theatres), and Cochrane Plaza (Target with the likelihood of other tenants following) If these centers (or others) face vacancies following the opening of the proposed project, the City of Morgan Hill will monitor maintenance of the vacated spaces and their centers for the first signs of disinvestment or deterioration, and require that these properties continue to be maintained to standards as stated in Section 15.56.020 of the Morgan Hill Municipal Code, such that the building will not endanger life, limb, health, property, safety, or welfare of the general public or its occupants. These standards are based on the International Conference of Building Officials "Uniform Code of the Abatement of Dangerous Buildings,	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department and Business Assistance and Housing Services	Prior to and during operation of the proposed project		

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MM 3.9-4 (cont.)	1997 Edition," except where otherwise noted in the Section 15.56.020 of the Morgan Hill Municipal Code. The property shall be maintained in accordance with Morgan Hill Municipal Code Section 8 regarding Health and Safety, including but not limited to keeping premises free of litter, weeds, graffiti, and abandoned vehicles.					
MM 3.9-5	To help small local businesses compete with likely national chain retailers in the proposed project, the City of Morgan Hill will fund programs aimed at assisting locally-owned small retailers. This could take the form of a business seminar sponsored by Target and the project developers to educate local retailers, or other programs geared toward small retail business assistance, such as a kiosk at the Proposed Project providing information on shopping opportunities in Downtown Morgan Hill or other centers. Such a program could be funded by the City of Morgan Hill committing a percentage of the sales tax revenue generated by the Proposed Project.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department and Business Assistance and Housing Services/Project Applicant and the Target Corporation	Prior to and during operation of the proposed project		
MM 3.9-6	City of Morgan Hill will ensure the Target Corporation, the other owners of Cochrane Plaza, and the owners of Tennant Station, Vineyard Town Center, and the Lawrence Oaks Shopping Center are aware that their centers are in the City's Redevelopment Area, and as a result they are eligible to apply for programs administered by the City's Business Assistance Division, including the Facade Improvement Program, Impact Fee Financing Programs, and Business Assistance Guidelines.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department and Business Assistance and Housing Services	Prior to and during operation of the proposed project		

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PUBLIC SERVICES						
MM 3.11-1	Subject to review and approval by the City of Morgan Hill Police Department, the project applicant shall install and maintain a video surveillance system throughout the proposed project and maintain on-site security personnel during all hours of operation, or provide other security measures acceptable to the Morgan Hill Police Department.	City of Morgan Hill Police Department	City of Morgan Hill Police Department/Project Applicant	During all hours of project operations		
TRAFFIC AND CIRCULATION						
MM 3.12-1a	At the Dunne Avenue/Monterey Road intersection, the westbound right-turn lane shall be restriped as a shared through/right-turn lane, and a northbound right-turn overlap phase shall be installed. This improvement would be required when 35 percent of the project has been constructed based on total PM peak hour trip generation.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	When 35 percent of the project percent has been constructed		
MM 3.12-1b	At the Cochrane Road/Mission View Drive intersection, a traffic signal shall be installed with protected left-turn phasing on all approaches. In addition, this intersection shall be reconfigured to include the following geometry: <ul style="list-style-type: none"> The northbound approach should include one left-turn lane and one shared through/right-turn lane. The westbound approach should include one left-turn lane, one through lane, and one shared through/right-turn lane. The southbound approach should include one left-turn lane, one shared through/right-turn lane, and one right-turn lane. The eastbound approach should include one left-turn lane, one through lane, and one right-turn lane. 	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Concurrent with or prior to the extension of Mission View Drive north of Cochrane Road		

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Mitigation Number	Mitigation Measure	Responsible Agency/ Department	Monitoring/Reporting Done By	Timing/ Frequency	Final Clearance Date	Comments
MM 3.12-2	The project shall implement the applicable actions listed in the <i>Immediate Implementation Action List</i> contained in the <i>Deficiency Plan Guidelines</i> of the County's Congestion Management Program, which are intended to encourage the use of non-automobile transportation modes and to help maximize the efficiency of the existing transportation system.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Concurrent with or prior to the extension of Mission View Drive north of Cochrane Road		
MM 3.12-3	The two driveways shown directly behind the movie theater complex on Mission View Drive (i.e., the second and third driveways north of the Cochrane Road intersection) should be eliminated from the proposed project, and a circulation aisle should be provided behind the movie theater complex. As an alternative, the project applicant shall work with the City to incorporate traffic calming improvements at the driveways located along Mission View Drive to minimize pedestrian and vehicle conflicts at the project site.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Concurrent with or prior to the extension of Mission View Drive north of Cochrane Road		
MM 3.12-4	The southernmost project driveway should be designated as a right-turn in and out only driveway (i.e., signs should be posted prohibiting left turn movements into or out of the project site at this driveway).	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Concurrent with or prior to the extension of Mission View Drive north of Cochrane Road		
MM 3.12-5	The following modifications are identified on the main north-south circulation aisle to discourage speeding and provide more visible crosswalks for pedestrians: a) At the first intersection north of Cochrane (i.e., between Shops K and Pad 7, and between Shops B and Pad 2), stop signs should be installed on the side street approaches; b) At the second intersection north of Cochrane, provide one of the following alternative configurations:	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Prior to operation of the proposed project		

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Mitigation Number	Mitigation Measure	Responsible Agency/ Department	Monitoring/Reporting Done By	Timing/ Frequency	Final Clearance Date	Comments
MM 3.12-5 (cont.)	<p>i) Provide raised intersection to provide vertical displacement, and provide stop signs on the side street approaches; or</p> <p>ii) Provide stops signs on all four approaches;</p> <p>c) At the third intersection north of Cochrane, provide stops signs on all four approaches.</p>					
MM 3.12-6	The designated loading zone shall be relocated far enough to the east to allow the intersection approach lane to be reduced to one lane.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Concurrent with or prior to the extension of Mission View Drive north of Cochrane Road		
MM 3.12-7	The project applicant shall construct a new covered bus stop along the project frontage, including transit amenities such as a bus turnout, a shelter, and benches. All improvements shall be in accordance with the Santa Clara Valley Transportation Authority (VTA) standards, with the exception of planting trees at the bus stop in order to provide a more comfortable and aesthetically pleasing environment. The City of Morgan Hill shall work with the project applicant, Caltrain, and the VTA on ways to increase the frequency and coverage of transit service serving the project area and the nearest Caltrain station. The City shall also aggressively pursue and work with VTA to provide the 'Community Bus Service' program in Morgan Hill.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Prior to operation of the proposed project		
MM 3.12-8	Pedestrian crosswalks shall be provided on all four legs of the Cochrane Road/Mission View Drive intersection, and at all but the west leg of the Cochrane Road/De Paul Drive Intersection.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Prior to operation of the proposed project		

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MM 3.12-9	<p>The following bicycle facilities shall be incorporated into the project:</p> <ul style="list-style-type: none"> a) Bicycle racks and/or lockers to accommodate bicycle travel by customers and employees. Bicycle parking facilities should be located in high visibility areas in order to encourage bicycle travel and discourage theft and vandalism. b) Class II bicycle lanes along the project street frontages. <p><i>The Santa Clara Valley Transportation Authority (VTA) Bicycle Technical Guidelines, VTA Community Design and Transportation Guidelines and the VTA Pedestrian Technical Guidelines shall be used in design of the proposed bicycle facilities associated with the proposed project.</i></p>	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Prior to operation of each phase of the proposed project		
MM 3.12-10	<p>The overall number of parking spaces included in the project shall be required to meet the City code parking requirement as follows: the cinema shall be parked at 1 space for every 3.5 seats, and the remainder of the shopping center shall be parked at one space for every 283 square feet.</p>	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Prior to operation of each phase of the proposed project		
MM 3.12-11	<p>At the Cochrane Road/Mission View Drive intersection, a traffic signal shall be installed with protected left-turn phasing on all approaches. In addition, this intersection shall be reconfigured to include the following geometry:</p> <ul style="list-style-type: none"> • The northbound approach should include one left-turn lane and one shared through/right-turn lane. • The westbound approach should include one left-turn lane, one through lane, and one shared through/right-turn lane. 	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Concurrent with or prior to the extension of Mission View Drive north of Cochrane Road		

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Mitigation Number	Mitigation Measure	Responsible Agency/ Department	Monitoring/Reporting Done By	Timing/ Frequency	Final Clearance Date	Comments
MM 3.12-11 (cont.)	<ul style="list-style-type: none"> The southbound approach should include one left-turn lane, one shared through/right-turn lane, and one right-turn lane. The eastbound approach should include one left-turn lane, one through lane, and one right-turn lane. 					
MM 3.12-12	The project shall implement the applicable actions listed in the <i>Immediate Implementation Action List</i> contained in the <i>Deficiency Plan Guidelines</i> of the County's Congestion Management Program, which are intended to encourage the use of non-automobile transportation modes and to help maximize the efficiency of the existing transportation system.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Prior to operation of the proposed project		
MM3.12-13	<p>The following intersection modifications are identified to provide acceptable operations under General Plan Buildout Conditions:</p> <p>a) <u>Cochrane Road/Butterfield Boulevard</u>. For the intersection to operate at LOS D+ or better during the AM and PM peak hours, the General Plan configuration for the intersection would require the following modifications:</p> <ul style="list-style-type: none"> Northbound approach: increase number of left-turn lanes from one to two; increase the number of through lanes from one to two; reduce the number of right-turn lanes from two to one. Eastbound approach: add a free right-turn lane. <p>b) <u>Cochrane Road/Cochrane Plaza</u>. For the intersection to operate at LOS D+ or better during the PM peak hour, the General Plan configuration for the intersection would require the following modifications:</p> <ul style="list-style-type: none"> Southbound approach: increase number of left-turn 	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Payment of development impact fees prior to operation of the proposed project		

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Mitigation Number	Mitigation Measure	Responsible Agency/ Department	Monitoring/Reporting Done By	Timing/ Frequency	Final Clearance Date	Comments
MM3.12-13 (cont.)	lanes from one to two; change the shared left/through lane to a through lanes; keep the number of right-turn lanes at one.					
MM 3.12-14	The westbound approach of the U.S. Highway 101/Cochrane Road intersection shall be converted to provide one separate through lane and one shared through right-turn lane, subject to review and approval by Caltrans and the City of Morgan Hill., to improve the level of service at this intersection to LOS D during the Saturday peak hour.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Prior to operation of each phase of the proposed project		
UTILITIES AND SERVICE SYSTEMS						
MM 3.13-1	Subject to review and approval by the City of Morgan Hill, the project applicant shall locate and maintain recycling receptacles for corrugated cardboard, mixed paper, food and beverage containers, and landscaping waste. Such receptacles shall be located adjacent to the garbage dumpsters serving the businesses personnel generating such waste. Contracts for or maintenance the collection of these recyclables shall also be maintained as available.	City of Morgan Hill Community Development Department	City of Morgan Hill Community Development Department/Project Applicant	Prior to operation of the proposed project		